

FANNING, PHILLIPS & MOLNAR

CONTRACT NO. V526P-3108

VABCA-3937

VA MEDICAL CENTER
BRONX, NEW YORK

Gary A. Molnar, P.E., Principal, Fanning, Phillips & Molnar, Ronkonkoma, New York, for the Appellant.

Paul A. Embroski, Esq., Trial Attorney; **Phillipa L. Anderson, Esq.**, Deputy Assistant General Counsel; **William E. Thomas, Jr., Esq.**, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

ORDER DISMISSING APPEAL

1. In its January 5, 1994, Notice of Docketing and Order to Show Cause, the Board wrote that the Appellant's "appeal of its 'claim' for damages appears to be premature, since the time allotted to the contracting officer under Section 5(c)(2) to render a final decision has not yet expired."
2. On January 24, 1994, the Board received the Appellant's "Reply to the Order to Show Cause," in which the Appellant acknowledged that "its claim for damages is, indeed, premature by reason of want of passage of statutory period for the Contracting Officer to render a final decision on such claim."
3. Accordingly, dismissal for lack of jurisdiction is appropriate. Therefore, the appeal of Fanning, Phillips & Molnar, VABCA No. 3937 is hereby Dismissed for Lack of Jurisdiction pursuant to Board Rule 5.
4. This dismissal is without prejudice to the Appellant's ability to appeal an unfavorable decision by the contracting officer of its pending claim to either this Board or to the U.S. Court of Federal Claims.

IT IS SO ORDERED

DATE: **January 26, 1994**

GUY H. McMICHAEL III
Chief Administrative Judge